

REMARKS/ARGUMENTS

The Applicants respectfully request reconsideration of the present application in view of the foregoing amendments and the following remarks/arguments. Claims 1-25 were originally filed in the present Application. By Preliminary Amendment, claims 2, 4, 5, 9, 19 and 20 were canceled, without prejudice or disclaimer, claims 26-48 were added, and claims 1, 3, 6-8, 10-18 and 23-25 were amended. By a prior Amendment, Applicants amended claims 1, 3 and 8, canceled claim 10, and withdrew claims 6, 12, 14-18 and 21-48 in response to the Examiner's Restriction Requirement. By another previous Amendment, the Applicants amended claims 1, 7, 8, 11 and 13, and added new claim 49. By yet another prior Amendment, the Applicants amended claims 1, 7, 11 and 49, canceled claim 3, and withdrew claims 6, 8 and 13 pending the allowance of a generic independent claim on which these claims may depend. Also, the Applicants added new claims 50-64. In addition, the Applicants canceled claims 18, 21-24 and 26-28, comprising Group II and being drawn to a non-elected method, as well as claims 25 and 35-48, comprising Group III and being drawn to a non-elected railing/fencing kit and method of assembling thereof. In response to a Notice of Non-Compliant Amendment, claims 8 and 13 were reinstated. By the present Amendment, claims 1, 7, 8, 13, 49, 50, 57 and 61 are amended. Accordingly, claims 1, 7, 8, 11, 13 and 49-64, as herein amended, are pending in the present application.

I. OBJECTIONS

The Examiner has first objected to the drawings for allegedly failing to show the claimed feature of a screw disposed within the aperture (Claims 54, 55, 63 and 64). New Figure 21 has been added to the present application to illustrate this feature, among others. Because these features were already disclosed in the specification and in the claims, new Figure 21 does not

add new matter to the application. In addition, in the Notice of Non-Compliant Amendment mailed November 6, 2006, the Examiner cites that this added drawing was not labeled “New Sheet.” In response, this sheet has now been labeled as such.

The Examiner has objected to the drawings for allegedly failing to show the claimed features of the fastener being non-metallic (Claim 51), being plastic (Claim 52), and being rubber (Claim 52). New Figures 15C and 15D have been added in Replacement Sheet 9/10 to illustrate plastic (i.e., synthetic) fasteners corresponding, notwithstanding material, to Figures 15A and 15B, respectively. While industry standards permit light parallel hatch marks to generically illustrate the material of an object, it is understood that such typically generic hatch marks are sometimes interpreted as indicating a metal material under USPTO standards. Accordingly, these new figures are added to eliminate any possible confusion on this point.

The Examiner has next made several objections to the labeling used in several of the figures, namely, Figures 15, 15A and 15B. The substance of these objections is addressed in turn below, however, the Applicants initially direct the Examiner’s attention to the previous Restriction Requirement mailed December 17, 2004. On page 4 of that Office Action, the Examiner alleged that Species VI (Figure 15A) and Species VII (Figure 15B) were independent or distinct, and required an election of a species to prosecute. In response, the Applicants elected Species VII (Figure 15B), as acknowledged by the Examiner. However, the Examiner now has issued objections to non-elected Figure 15A. While the Applicants will gladly prosecute Figure 15A along with elected Figure 15B and new Figure 15, the Applicants request a clarification on whether the Examiner has reconsidered his restriction of these figures into distinct species.

Looking substantively at these objections, the Examiner first objects to Figure 15A for allegedly failing to show “the ridges 211A disposed on an exterior surface of the first portion” as described on page 19, lines 15-17 of the specification. The Examiner alleges that “the drawings

show the ridges internal of the exterior surface and thus not on the exterior surface.” Although it is clear that the “valleys” between the illustrated ridges can also constitute an external surface of the fastener, and that nothing in the cited portion of the specification suggests that the fastener only has a single exterior surface, the Applicants have amended this portion of the specification to recite that the ridges 211A are “disposed *in* an exterior surface of the first portion.”

The Examiner has next objected to the drawings by alleging that 211A (Figures 15 and 15A) and 213A (Figures 15 and 15A) have been both used to designate the same ridge. First, it is noted that designators 211A and 213A are used to designate “sets of ridges” and not a specific ridge, as clearly set forth in Paragraph 55 of the application. In addition, the specification states that “FIG 15 illustrates an isometric view of a spherical fastener 200A, while FIG. 15A illustrates a cross section view of the fastener 200A in FIG. 15 taken along Line 15A-15A.” (Page 19, lines 2-4). Thus, since the fastener 200A in Figure 15A is a different view of the same fastener 200A of Figure 15, the Applicants assert that it is acceptable (and in fact, preferred) that like numbers refer to like features in the two figures. Thus, “211A” is used to designate the same set of ridges in both figures, and “213A” has been used to designate the same set of ridges in both figures, since the two figures are different views of the same fastener 200A. Accordingly, the Applicants respectfully request that this objection be withdrawn.

The Examiner has also objected to the drawings by alleging that 211B (Figure 15B) and 213B (Figure 15B) have been both used to designate the same ridge. In response, the Applicants direct the Examiner’s attention to first portion 212B and second portion 214B illustrated in Figure 15B. Ridge 211B is located in first portion 212B, while ridge 213B is located in second portion 214B. Accordingly, designators 211B and 213B are not and cannot be referring to the same ridge since the illustrated ridges are expressly located in different portions of the fastener. Accordingly, the Applicants respectfully request that this objection also be withdrawn.

The Examiner has next objected to the drawings by alleging that 222A (Figure 15 and 15A) 222B (Figure 15B) have been both used to designate the same stop. In response, the Applicants have amended Figures 15, 15A and 15B, as well as the appropriate paragraph in the specification (paragraph [0057]), to correct this inadvertent error. Specifically, designator “222A” has been removed from Figure 15, and has been amended to be “222A₁” and 222A₂” in Figure 15A. Also, designator “222B” in Figure 15B has been amended to be “222B₁” and 222B₂” in Figure 15B. Accordingly, this objection has been overcome.

The Examiner has also objected to paragraph [0058] of the specification as having an incorrect description of illustrated aperture 216B. In response, the Applicants have amended this paragraph to correct this inadvertent error. Accordingly, this objection has been overcome.

The Examiner has next objected to claims 52 and 61 as having typographical errors (i.e., “plastics” should be “plastic”). In response, the Applicants have amended these claims to correct these inadvertent errors. Accordingly, this objection has been overcome as well.

To summarize the amendments made to the drawings:

1. Designator “222A” has been removed from Figure 15, and has been amended to be “222A₁” and 222A₂” in Figure 15A. Also, designator “222B” in Figure 15B has been amended to be “222B₁” and 222B₂” in Figure 15B.
2. Figures 15C and 15D have been added on Replacement Sheet 9/10.
3. Drawing Sheet 10 has been labeled “New Sheet.”
4. Drawing Sheets 1-9 have been relabeled as 1/10, 2/10, etc., to indicate that 10 Drawing Sheets are now present.

II. REJECTIONS UNDER 35 U.S.C §112

The Examiner has rejected claims 8, 13 and 50 under 35 U.S.C §112, second paragraph,

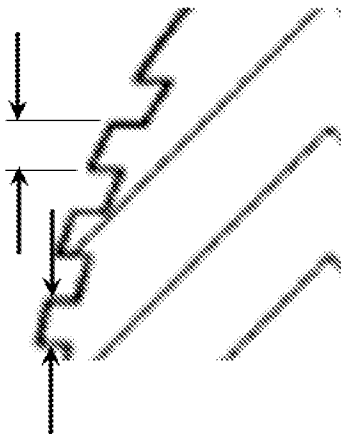
for reciting phrases lacking antecedent basis. In response, the Applicants have amended these claims to correct these inadvertent errors. Accordingly, this rejection has been overcome.

III. DOUBLE PATENTING

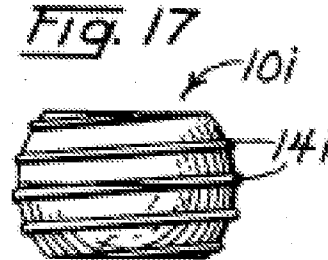
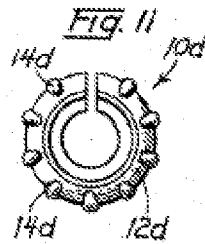
The Examiner has provisionally rejected claims 1 and 7 of the present application on the ground of nonstatutory, obviousness-type double patenting in view of claims 26 and 38 of copending U.S. Patent Application No. 11.278,510. In response, the Applicants have filed a Terminal Disclaimer since the cited copending application is commonly owned with the present application. Accordingly, this provisional rejection has been overcome.

IV. REJECTIONS UNDER 35 U.S.C §102

The Examiner has rejected claims 1, 7, 8, 11, 13, 49-52, 54, 56-61 and 63 under 35 U.S.C §102(b) as anticipated by U.S. Patent 3,539,234 to Rapata. In response, the Applicants have amended independent claim 1 to recite that the first and second ridges each comprise parallel rectilinear sidewalls, and wherein the sidewalls of the first and second ridges extend parallel with respect to one another. Independent claim 57 has been similarly amended. The ridges having the parallel rectilinear sidewalls may be seen in the close-up view of Fig. 15B of the present application, which is reproduced below.

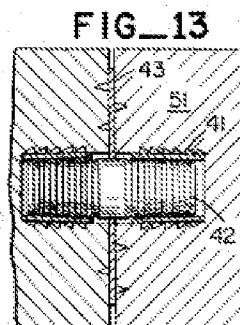


In contrast, Rapata only discloses devices having ridges that are circular or otherwise curved when extending from the device body. Indeed, as pointed out by the Examiner in the pending Office Action, the ridges of Rapata's device are "curved such that half of the curved [sic] is tapered towards the maximum diameter." (Office Action, pg. 8.) Exemplary embodiments of Rapata's curved ridges are reproduced below.



Since all of the embodiments disclosed in Rapata clearly do not include ridges with parallel rectilinear sidewalls, Rapata does not anticipate independent claims 1 and 57, as amended herein. Rapata therefore cannot anticipate the claims dependent on claims 1 and 57. Accordingly, this rejection has been overcome.

The Examiner has also rejected claims 1, 7, 8, 11, 13, 49 and 50 under 35 U.S.C §102(b) as anticipated by U.S. Patent 3,438,659 to Waldron. However, like Rapata, Waldron does not disclose a fastener having first and second ridges, each comprising parallel rectilinear sidewalls, and wherein the sidewalls of the first and second ridges extend parallel with respect to one another. In contrast, Waldron discloses a dowel-type fastener having serrated or "saw-tooth" ridges extending from the fastener body, as shown in Fig. 13 below.



Thus, Waldron also does not anticipate independent claim 1, as amended herein, and also cannot anticipate the claims dependent on claim 1. Accordingly, this rejection has also been overcome.

V. REJECTIONS UNDER 35 U.S.C §103

The Examiner has rejected claims 1, 53-55, 57 and 62-64 under 35 U.S.C. §103(a) as allegedly obvious and thus unpatentable over U.S. Patent No. 6,932,329 to Harder in view of U.S. Patent No. 5,131,783 to Astl. As discussed above, the Applicants have amended independent claims 1 and 57 to recite that the first and second ridges each comprise parallel rectilinear sidewalls, and wherein the sidewalls of the first and second ridges extend parallel with respect to one another. In contrast, none of the embodiments in either Harder or Astl teach or suggest ridges having such parallel rectilinear sidewalls. Instead, as shown below, both of these references disclose ridges that are triangular or serrated, rather than having parallel rectilinear sidewalls.

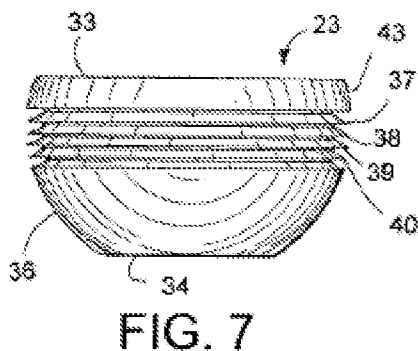


Fig. 7 of Harder

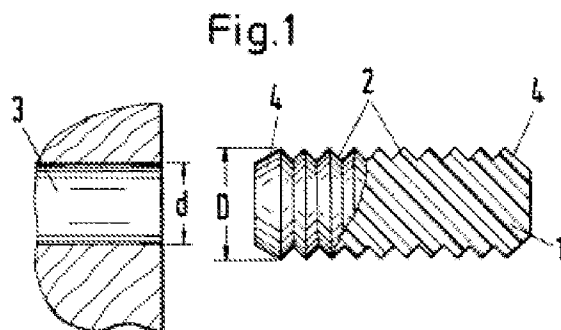


Fig. 1 of Astl

Thus, neither Harder nor Astl teaches or suggests all of the elements of independent claims 1 and 57, as amended herein, and therefore cannot render these claims, or the claims dependent on these independent claims, obvious. Accordingly, this rejection has also been overcome.

VI. CONCLUSION

The Applicants respectfully submit that pending claims 1, 7, 8, 11, 13 and 49-64 are in condition for allowance, and request a Notice of Allowability for the pending claims. The Examiner is invited to contact the undersigned Attorney of Record if such would expedite the prosecution of the present Application. The Applicants have file a Request for Continued Examination with the present Amendment, along with the required fee. If it is determined that further fees are due, or an overpayment has occurred, please charge or credit Deposit Account No. 13-0480, referencing the Attorney Docket Number specified herein.

Respectfully submitted,

/James H. Ortega/

Date: November 27, 2006

James H. Ortega
Reg. No. 50,554
BAKER & MCKENZIE LLP
2001 Ross Avenue, Suite 2300
Dallas, TX 75201
Tel: (214) 978-3058
Fax: (214) 978-3099